

Chapter 1.0 Introduction

1.1 Introduction

The Bureau of Reclamation (Reclamation) is submitting this Biological Assessment (BA) pursuant to Section 7(a) (2) of the Endangered Species Act (ESA) to the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS).

This BA describes and analyzes the effects of the operation and maintenance (O&M) of the Rogue River Basin Project, Talent Division (Project) on critical habitat and listed species. In addition, this document includes the effects on essential fish habitat (EFH) as required under the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996.

The Project is located in southwest Oregon near the city of Medford and encompasses Little Butte Creek, Bear Creek, Antelope Creek, and Dry Creek in the Rogue River basin and tributaries of Jenny Creek in the Klamath River basin (*Frontispiece*). The Project covers approximately 35,000 acres of irrigated cropland in three irrigation districts: Talent Irrigation District (TID), Medford Irrigation District (MID), and Rogue River Valley Irrigation District (RRVID) (Figure 1-1).

Congress, by the Act of August 20, 1954 (68 Stat. 752, Public Law 83-606), authorized the Secretary of the Interior to construct the Rogue River Basin Project Talent Division, consisting of “two principal reservoirs at the Howard Prairie and Emigrant sites, together with other necessary works for the collection, impounding, diversion, and delivery of water, the generation and transmission of hydroelectric power and operations incidental thereto.”

Talent Division was authorized for the purposes of irrigation, flood control, hydroelectric power, and for other beneficial purposes. Fish and wildlife facilities and minimum basic recreation facilities were also authorized. The Secretary of the Interior was also authorized to undertake the rehabilitation of some existing facilities in MID and RRVID under the provisions of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724, Public Law 81-335), as amended.

The 1954 Act was amended by the Act of October 1, 1962 (76 Stat 677, Public Law 87-727) to authorize construction of Agate Dam and Reservoir, a diversion dam, feeder canals, and related facilities as a part of the Talent Division. Minimum basic recreation facilities and facilities for the conservation and development of fish and wildlife were also authorized.

Each federal agency has an obligation to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat unless that activity is exempt pursuant to the ESA (16 U.S.C§ 1536(a) (2); 50 CFR § 402.03). Under relevant regulations, 50 CFR § 402.12(f), the “contents of a biological assessment are at the discretion of the Federal agency and will depend on the nature of the Federal action.” Reclamation followed 50 CFR § 402.12(f) and the *Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities under Section 7 of the Endangered Species Act* (USFWS and NMFS 1998) in developing the content of this BA.

1.2 Reclamation’s Approach to the Consultation Process

- General Approach

This BA assesses the effects of the operation and maintenance actions as currently proposed, and will be in effect until or unless reinitiation of consultation is required. In this approach, Reclamation has analyzed, and is consulting on Federal activities. However, not all activities are discretionary, and Reclamation does not control all Project operations. Any potential operational changes require research on the part of our contracting and legal staff.

- Non-Federal Actions

Reclamation should not be responsible for the effects of all water development and land management activities, both Federal and non-Federal, on endangered species throughout the Rogue River basin. For example, Reclamation cannot be responsible for streamside rural development, road building, forest management, or grazing influences on endangered species. Non-Federal actions are included in the ESA defined environmental baseline.

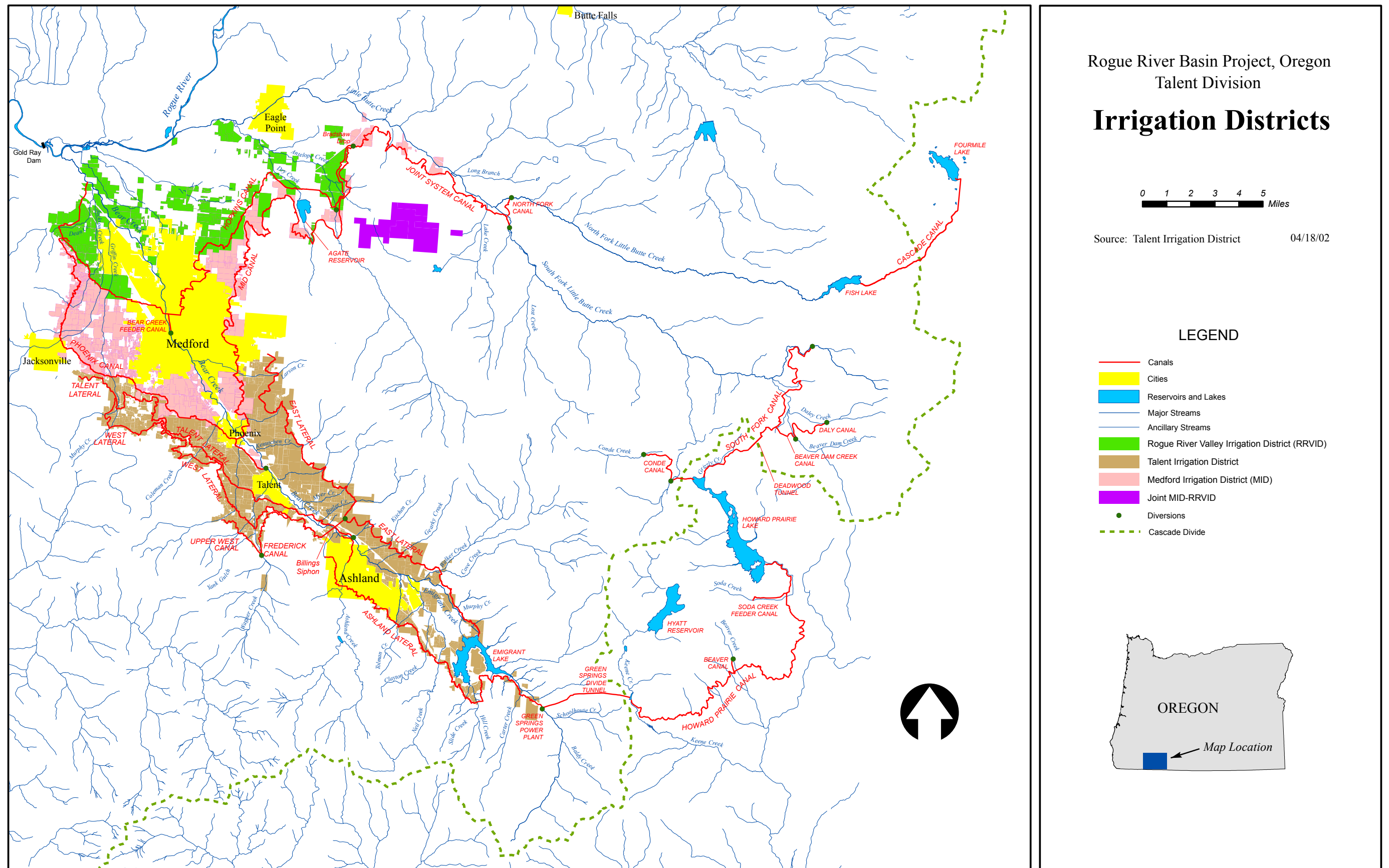


Figure 1-1

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- Involvement of Contracting Districts, Tribes, and Other Parties

Although non-Federal actions are not included in the proposed action, contracting irrigation districts, tribes and other parties are involved in discussion on Project operations affecting the Rogue River basin. This is consistent with the Secretary of the Interior's "four Cs" policy, which commits all Interior agencies to communication, consultation, cooperation, and conservation when undertaking Departmental efforts.

- Tribal Water Rights and Trust Resources

Oregon now has nine federally recognized tribes: Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, Confederated Tribes of Warm Springs, Confederated Tribes of Umatilla Indian Reservation, Cow Creek Band of Umpqua Indians, Klamath Tribes, and Coquille Tribe. None of these tribes are located in the Rogue River basin.

There are four federally recognized Indian Tribes in the Klamath River basin. These tribes are the Klamath Tribes in Oregon, and the Yurok, Hoopa, and Karuk Tribes in California. The Klamath Tribes' water rights are currently included in the pending Klamath Basin adjudication in Oregon. There are currently no proceedings pending to determine the other tribes' water rights.

1.3 Key Things You Should Know When Reading This BA

- Federal and Non-Federal Facilities

As used in this document, the term Project encompasses both Federal and non-Federal facilities. Federal facilities are those facilities acquired or constructed pursuant to the authority of the Reclamation Act of 1902, and all acts amendatory thereof and supplementary thereto. Non-Federal facilities are those facilities held under private ownership and not covered under Reclamation law.

- Transferred/Reserved Works

Reclamation's ability to design, construct, operate and maintain project facilities is dependent upon Congressional authorization. Congress also authorizes Reclamation to conduct these activities and operate and maintain them for a period of time. After that time, Reclamation enters into an agreement with the beneficial user, e.g., an irrigation district, transferring the operation and maintenance responsibilities to that user. These facilities are referred to as transferred works. However, these agreements do not transfer ownership of the facilities. Only Congress can authorize transfer of title of facilities out of Federal ownership.

Occasionally, O&M responsibilities to certain facilities are not transferred to the beneficial user for specific reasons. These facilities are referred to as reserved works and are staffed, operated and maintained by Reclamation. The only reserved works in the Project is the Green Springs Powerplant and its appurtenant facilities (Cascade Tunnel inlet, Cascade Tunnel, penstock/wasteway control valves, penstock, etc.)

- Transbasin Water Supplies

The first system consists of collection and conveyance facilities that transfer water from the headwaters of the South Fork of Little Butte Creek to Howard Prairie Lake and Hyatt Reservoir storage facilities in the Klamath basin. This water then returns to the Rogue River basin via the Howard Prairie Delivery Canal. The second transbasin water system consists of collection, storage, and conveyance facilities that transfer unregulated flows from tributaries of Jenny Creek in the Klamath River basin to Rogue River basin streams. Operational effects of the water transfer on ESA species in Klamath River basin have been excluded from Klamath Project ESA consultations and will be evaluated in this BA.

- Contracts

Reclamation has repayment contracts with TID, MID, and RRVID for the Project. These contracts provided for the past rehabilitation, enlargement, and extension of existing facilities, the construction of new facilities, operation and maintenance, and the repayment of costs associated with the work. All Project construction and rehabilitation work has been completed.

- Qualitative versus Quantitative Approaches

This BA includes a portion of the Rogue River basin and a portion of the Klamath River basin. More quantitative data is available for the Klamath River basin, thus the effects analysis uses a quantitative approach. The Rogue River basin lacks quantitative studies. Data collection has been sporadic with few research studies, thus the available information has been presented in a qualitative manner. The best available data and information are used in both cases.

- Environmental Baseline

The environmental baseline describes a “snapshot in time” which includes the effects of all past and present Federal, state, private and other human activities but not the effects of the proposed action that is the subject of the consultation. Thus, all existing facilities and all previous and current effects of the construction and operation of the Project are part of the ESA-defined environmental baseline. Also included in the environmental baseline are all ongoing, non-Federal irrigation activities, as well as existing physical features such as diversion dams, storage dams, and flood control dikes. The future operation and maintenance of the Federal facilities is the proposed action under consultation, the effects of which are to be assessed and determined in the consultation process.

- Hydrologic Effects Analysis

Reclamation used the MODSIM model for this BA to provide information to assist in determining the hydrologic effects of the ongoing proposed action. Two scenarios were modeled. One scenario simulates current and ongoing operations including Reclamation’s proposed action and is called “with Reclamation” in the remainder of the document. This scenario reflects the proposed action, interrelated and interdependent actions, and other actions such as private irrigation.

The second scenario simulates hydrologic conditions without the proposed action and is termed “without Reclamation”. This scenario removes the operation of Reclamation’s facilities. The “with Reclamation” scenario can be compared to the “without Reclamation” scenario to determine the hydrologic effects of the proposed action.

1.4 Previous Consultations

Reclamation has informally consulted with USFWS and NMFS since 1995 under Section 7 of the ESA on several projects and programs undertaken in the Rogue River Basin Project action area. Reclamation evaluated these actions under National Environmental Policy Act (NEPA) environmental compliance requirements using the respective NEPA documents to identify the effects of the action on ESA proposed or listed species. Accordingly, the ESA effects analysis of four separate Reclamation actions have been included in environmental assessment documents followed by Findings of No Significant Impacts (Table 1-1). Reclamation concluded in all four cases no listed species would be affected. NMFS and USFWS subsequently concurred with these findings.

Table 1-1. Previous Reclamation ESA Section 7 Consultations in Rogue River Basin Project Action Area

Project Name (NEPA Document)	Listed Species	Consultation Results	USFWS/NMFS Determination
Emigrant Lake Resource Management Plan, Oregon (FONSI/FEA September 1995)	Bald eagle	No Effect	Concurrence by USFWS, June 1995
Rogue River Basin Fish Passage Improvement Program, Oregon (FONSI/FEA March 1997)	Peregrine falcon, bald eagle, northern spotted owl	No Effect	Concurrence by USFWS, March 1997
J. Herbert Stone Constructed Wetlands Demonstration Project, J. Herbert Stone Nursery, Oregon (FONSI/FEA July 1999)	SONCC coho salmon, peregrine falcon, bald eagle, northern spotted owl	No Effect	Concurrence by USFWS and NMFS, 2000
Agate Reservoir Resource Management Plan, Oregon (FONSI/FEA September 2000)	SONCC coho salmon, vernal pool fairy shrimp, peregrine falcon, bald eagle, northern spotted owl	No Effect	Concurrence by USFWS and NMFS, 2000

1.5 How This Biological Assessment Is Organized

Each chapter in the BA has an introduction that describes the applicable regulation and the content of the chapter. The information on the Rogue River basin is listed first, followed by the information for the Klamath River basin. Species are grouped taxonomically.

- Chapter 1 provides the preliminary information that is helpful in reading the rest of the document.
- Chapter 2 describes the action area and the proposed action. The description of the proposed action summarizes key information contained in the Rogue River Basin Project, Talent Division, Oregon, Facilities and Operations report (Vinsonahler 2002) . This report was sent to the Services and other interested entities in April 2002.
- Chapter 3 lists the status, location, and a summary of the life history of listed species. If a species was determined to be outside the action area, it is not discussed in the remainder of the BA.
- Chapter 4 describes the environmental baseline condition for the listed species. The environmental baseline provides a snapshot in time of the effects of all past and present Federal, state, private, and other human activities in the action area.
- Chapter 5 presents the Little Butte Creek and Bear Creek Surface Water Distribution Model used to analyze the hydrologic effects of the proposed action.
- Chapter 6 describes the effects of the proposed action on listed species and critical habitat.
- Chapter 7 provides information on cumulative effects for each species in the action area. We've provided descriptions of a range of beneficial activities that Local Coordinating Groups have participated in since 1999.
- Chapter 8 provides the essential fish habitat assessment under the Magnuson-Stevens Fishery Conservation and Management Act.
- Chapter 9, the bibliography, is followed by two appendices.

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